

Maine Revised Statutes
Title 18-A: PROBATE CODE
Article :

§5-312. GENERAL POWERS AND DUTIES OF GUARDIAN

(a). A guardian of an incapacitated person has the same powers, rights and duties respecting his ward that a parent has respecting his unemancipated minor child, except that a guardian is not legally obligated to provide from his own funds for the ward and is not liable to 3rd persons for acts of the ward solely by reason of the parental relationship. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

(1). To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of abode within or without this State, and may place the ward in any hospital or other institution for care in the same manner as otherwise provided by law. [1979, c. 540, §1 (NEW).]

(2). If entitled to custody of his ward he shall make provision for the care, comfort and maintenance of his ward and, whenever appropriate, arrange for his training and education. Without regard to custodial rights of the ward's person, he shall take reasonable care of his ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of his ward is in need of protection. [1979, c. 540, §1 (NEW).]

(3). A guardian may give or withhold consents or approvals related to medical or other professional care, counsel, treatment or service for the ward. Except as authorized by a court of competent jurisdiction, a guardian shall make a health-care decision in accordance with the ward's individual instructions, if any, and other wishes expressed while the ward had capacity to the extent known to the guardian. Otherwise, the guardian shall make the decision in accordance with the guardian's determination of the ward's best interest. In determining the ward's best interest, the guardian shall consider the ward's personal values to the extent known to the guardian. A decision of a guardian to withhold or withdraw life-sustaining treatment is effective without court approval unless the guardian's decision is made against the advice of the ward's primary physician and in the absence of instructions from the ward made while the ward had capacity. [1995, c. 378, Pt. B, §2 (AMD).]

(4). If no conservator for the estate of the ward has been appointed, he may:

(i) Institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform his duty;

(ii) Receive money and tangible property deliverable to the ward and apply the money and property for support, care and education of the ward; but, he may not use funds from his ward's estate for room and board which he, his spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the ward, if notice is possible. He must exercise care to conserve any excess for the ward's needs. [1979, c. 540, §1 (NEW).]

(5). A guardian is required to report the condition of his ward and of the estate which has been subject to his possession or control, as specified by the court at the time of the initial order or at the time of a subsequent order or as provided by court rule.

The court on its own motion, or on the petition of any interested person, may appoint a visitor to review the guardian's report and determine if appropriate provisions for the care, comfort and maintenance of his ward and for the care and protection of his ward's property have been made. The visitor shall report his findings to the court in writing. [1985, c. 440, §§6, 13 (AMD).]

(6). If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this code, and the guardian must account to the conservator for funds expended. [1979, c. 540, §1 (NEW).]

[1995, c. 378, Pt. B, §2 (AMD) .]

(b). Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward, and is entitled to receive reasonable sums for his services and for room and board furnished to the ward as agreed upon between him and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to 3rd persons or institutions for the ward's care and maintenance.

[1979, c. 540, §1 (NEW) .]

SECTION HISTORY

1979, c. 540, §1 (NEW). 1985, c. 440, §§6,13 (AMD). 1991, c. 719, §2 (AMD). 1995, c. 378, §B2 (AMD).

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